

EXPLANATORY STATEMENT

Issued by authority of the Assistant Treasurer

Taxation Administration Act 1953

Taxation Administration Amendment (Disclosure of Information) Regulation 2016

Section 18 of the *Taxation Administration Act 1953* (the Act) provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The purpose of the *Taxation Administration Amendment (Disclosure of Information) Regulation 2016* (the Regulation) is to amend the *Taxation Administration Regulations 1976* to allow taxation officers to disclose protected information to taskforce officers in Taskforce Cadena.

Under the Act, it is an offence for a taxation officer to record or disclose protected information that they acquired in their role as a taxation officer.

There are various exceptions to this offence, including disclosure for law enforcement and related purposes. In particular, taxation officers can share protected information with a taskforce officer of a prescribed taskforce if the record or disclosure is for or in connection with a purpose of the prescribed taskforce. A major purpose of the taskforce must be protecting the public finances of Australia. The *Taxation Administration Regulations 1976* prescribe taskforces for the purposes of this exception.

The Regulation amends the *Taxation Administration Regulations 1976* to add Taskforce Cadena to the list of prescribed taskforces. This will allow taxation officers to disclose protected information to taskforce officers in Taskforce Cadena.

Taskforce Cadena was established for the purposes of reducing visa fraud, illegal work and the exploitation of foreign workers in Australia. A major purpose of Taskforce Cadena is to protect the public finances of Australia, including by deterring visa fraud, fraudulent phoenix activity, and unlawful employer and labour hire practices.

Details of the Regulation are set out in the [Attachment](#).

The Act does not specify any conditions that need to be met before the power to make the Regulation may be exercised.

The Regulation is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

A Regulation Impact Statement has not been prepared for this Regulation because it is not likely to have a regulatory impact on business, community organisations or individuals. This has been confirmed by the Office of Best Practice Regulation (OBPR reference 20104).

The Regulation commences the day after it is registered.

ATTACHMENT

Details of the *Taxation Administration Amendment (Disclosure of Information) Regulation 2016*

Section 1 – Name of Regulation

This section provides that the title of the Regulation is the *Taxation Administration Amendment (Disclosure of Information) Regulation 2016* (the Regulation).

Section 2 – Commencement

This section provides that the Regulation will commence the day after it is registered.

Section 3 – Authority

This section provides that the Regulation is made under the *Taxation Administration Act 1953* (TAA).

Section 4 – Schedule

This section provides that each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1 – Amendments

Taskforce Cadena

The Regulation amends the *Taxation Administration Regulations 1976* to allow taxation officers to disclose protected information to taskforce officers in Taskforce Cadena.

Section 355-25 in Schedule 1 to the TAA provides that it is an offence for a taxation officer (an ATO employee, Commissioner or Second Commissioner) to record or disclose protected information (information obtained under a taxation law that relates to an entity and could be used to identify that entity) that the taxation officer acquired in their role as a taxation officer.

Section 355-70 in Schedule 1 to the TAA provides exceptions to this offence for records or disclosures made for law enforcement and related purposes. This includes, under item 4 of the table in subsection 355-70(1) in Schedule 1 to the TAA, records made or disclosures to a taskforce officer of a prescribed taskforce that is for or in connection with a purpose of the prescribed taskforce.

A taskforce officer is an entity who holds an office in, is employed in, or is performing services for, an agency in the prescribed taskforce (subsection 355-70(11) in Schedule 1 to the TAA).

Pursuant to subsection 355-70(12) in Schedule 1 to the TAA, the regulations may prescribe a taskforce for the purposes of item 4 of the table in subsection 355-70(1) in Schedule 1 to the TAA. A major purpose of the taskforce must be protecting the public finances of Australia.

Regulation 48 of the *Taxation Administration Regulations 1976* contains a list of prescribed taskforces for the purposes of subsection 355-70(12) in Schedule 1 to the TAA.

Item 1 of the Regulation adds Taskforce Cadena to that list so that taxation officers will be able to share protected information with taskforce officers of Taskforce Cadena.

Taskforce Cadena brings together key Government agencies to investigate allegations of fraud and worker exploitation involving temporary visa holders. The objectives of Taskforce Cadena are to:

- reduce visa fraud, illegal work and the exploitation of foreign workers in Australia;
- utilise intelligence from a range of sources to identify and investigate major targets of interest; and
- influence Australian businesses in order to enhance compliance with Australian workplace laws and regulations in relation to foreign worker rights and obligations.

Agencies currently in Taskforce Cadena are the Department of Immigration and Border Protection, Australian Border Force and the Fair Work Ombudsman.

A major purpose of Taskforce Cadena is the protection of the public finances of Australia. Taskforce Cadena will promote this purpose by deterring visa fraud, fraudulent phoenix activity and unlawful employer and labour hire practices. Unlawful, unpaid or cash work affects Australia's tax revenue (and therefore public finances). Accordingly, Taskforce Cadena meets the requirement in subsection 355-70(12) in Schedule 1 to the TAA that a major purpose of the taskforce be the protection of Australia's public finances.

The Regulation amends the *Taxation Administration Regulations 1976* to add Taskforce Cadena to the list of prescribed taskforces. This will allow taxation officers to share protected information with taskforce officers of Taskforce Cadena where the record or disclosure is for or in connection with a purpose of the taskforce.